



Motor Vehicle/Marine Dealer Body/Repair Shops

Sales and Use Tax information

Utah State Tax Commission

Division of Motor Vehicles

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If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at (801) 297-3811, or TDD (801) 297-2020. Please allow three working days for a response.

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Introduction

This publication is a basic guide for owners, managers and other personnel of motor vehicle and marine dealers and body/repair shops in Utah. It provides information about Utah sales and use tax for common business transactions. The information is not all-inclusive, and in case of any conflict between the text of this manual and the law, the law is controlling. As questions or problems arise, please contact the Utah State Tax Commission at one of the numbers at the end of this publication, or visit its website, tax.utah.gov.

Records

What Records Must be Kept?

You are required to keep adequate records showing the following information:

- gross receipts from all sales or leases of tangible personal property, whether you regard the receipts as taxable or nontaxable;
- all deductions allowed by law and claimed on returns filed; and
- the total purchase price of all tangible personal property purchased for sale, consumption or lease.

Records must include:

- the normal books of account;
- all bills, receipts, invoices, repair orders, sales orders, contracts or other documents of original entry supporting the entries in the books of account; and
- all schedules or working papers used in the preparation of tax returns.

For a comprehensive summary of record keeping requirements, see Tax Commission Rule R865-19S-22.

How Long Should Sales and Use Tax Records be Kept?

You must maintain records for the current calendar quarter plus the preceding three-year period. This applies to all records pertaining to transactions involving sales or use tax liability.

Representatives of the Tax Commission may examine your books, papers, records and other documents to verify the accuracy of any return filed or, if no return was filed, to determine the amount of tax due.

Paying Sales Tax

Sales tax due on vehicle sales by Utah vehicle dealers must be paid with dealers' sales and use tax returns, on or before their established due dates. Dealers are set up by the Tax Commission to file and pay sales tax either monthly or quarterly, depending on their annual sales tax liability.

Neither customers nor dealers may pay sales tax to the Division of Motor Vehicles at the time of registration. Even in the case of customers registering vehicles purchased from motor vehicle dealers or body shops, the sales tax must be paid to the Tax Commission by the sellers with their sales and use tax returns.

See Pub 25, "Sales and Use Tax; General Information," for more information about filing and paying sales tax. (**TIP:** Forms and publications can be found on the Tax Commission's website, tax.utah.gov.)

Special Charges to Customers

The following items are taxable:

- dealer preparation, delivery, commissions and similar fees;
- charges to customers for waste disposal, hazardous material handling or disposal, etc. (unless collection and payment of such fees is required by state or federal law);
- charges for vehicle theft protection packages if they include window etchings, glass engravings, security devices, or other modifications or additions to the vehicle;
- sales of extended warranties even though the sale of the vehicle may have qualified for exemption under "authorized carrier" exemption;
- sales of extended warranties or service plans (tax must be charged at the time the warranty agreement is sold); and
- amounts collected as "deductibles" at time of service.

The following items are nontaxable:

- document service fees, if separately identified and not included in total sales price (for more information, see Tax Commission Rules R865-19S-101 and R877-23V-14);
- costs of labor and parts to honor claims against in-house warranties and service plans, or charges to third-party service companies for nationally honored plans;
- fees to transfer a warranty to a new owner;
- the separate charges for interest or insurance when a vehicle is sold on credit (**CAUTION:** the total charge for lease of a vehicle is taxable);
- separate charges for towing services;
- state safety inspection fees;
- county emission testing fees;
- separate charges for diagnostic testing services if no repairs are made as a result of the test;
- parking or storage fees;
- charges for "GAP" coverage (Guaranteed Auto Protection) plans that protect the purchaser in the event of certain property losses;

- sales of extended warranties if the sale of the vehicle qualified for exemption under the nonresident affidavit exemption or out-of-state delivery exemption;
- specific charges for amounts to be paid to the Utah State Tax Commission for titles, registrations and license plates on behalf of customers, including the fee for a temporary permit; and
- amounts of manufacturer's rebates, whether paid to the purchaser or retained by the dealer as down payment or otherwise.

Verification of Exempt Sales

Religious and Charitable Institutions

An acceptable exemption certificate, such as form TC-721, must be on file for each customer claiming this exemption. Numbers with an N prefix (N#####) are issued to institutions qualifying as exempt from sales tax as religious or charitable organizations. Nonprofit organizations are not exempt unless they are also charitable or religious organizations and have an exemption number issued by the Utah State Tax Commission. The following general rules apply:

- For purchases of \$1,000 or more, the exemption shall be at the point of purchase. Vendors shall document all such sales.
- For purchases less than \$1,000, the exemption shall be in the form of a refund from the Tax Commission of sales/use taxes paid.
- Regardless of the amount of the sale, the exemption may be at the point of purchase if the purchase is made pursuant to a contract between the vendor and the charitable or religious institution, or if the sale is made by a public utility to a religious or charitable institution. Vendors shall document all such sales.

Farmers

Repair parts and labor for farm tractors and equipment (not including registered vehicles) are exempt from tax. The seller must have an exemption certificate (such as form TC-721) on file. Commercial agricultural producers may not purchase a vehicle tax free unless it is not subject to any state registration. Implement of Husbandry permits for off-highway farm machinery are not considered "registration." Automobiles and trucks are never exempt under the agricultural producer exemption.

Government

Purchases made by Utah state and local governments (including school districts) qualify for sales tax exemption if the purchaser:

- (1) makes payment by state or local government (including school district) check, purchase order, or voucher; or
- (2) regardless of the amount of the purchase, provides a copy of form TC-721, Exemption Certificate, properly completed and signed, at the time of the transaction.

If a purchaser is unable to provide the evidence required above, the sale does **NOT** qualify for the sales tax exemption for purchases made by a state or local government entity and the vendor shall collect sales tax at the time of transaction.

Vendors that make exempt sales to state and local governments are required to keep a record of the Utah State or local government check, purchase order, voucher or form TC-721 as evidence that the sale qualifies for the sales tax exemption.

The sales tax exemption for purchases by state and local government entities does **NOT** apply to purchases by a state other than Utah or to purchases by a local government entity located outside of Utah (e.g., Nevada Road Commission).

Native Americans

Certain enrolled members of Native American tribes (including the tribe itself) may purchase tax free if:

- the member has a tribal card showing a Federal Bureau Number;
- the sale is to an enrolled tribal member and delivery is taken on the member's own reservation (in the case of the Ute Indian Tribe, the sale must be made on or delivery must be made to tribal trust lands within the Uintah and Ouray reservations); **and**
- in the case of sales to the tribe itself, a purchase order, Exemption Certificate (TC-721) or similar evidence of tribal identity must be presented.

Sales of vehicles, parts or services on vehicles made off the reservation to enrolled members of the tribe are taxable. They are exempt from tax only if delivery is made to the reservation by the seller or a licensed common carrier.

Interstate Sales

Sales to consumers are exempt from Utah sales tax when the vehicle or merchandise is delivered by the dealer to an out-of-state location. Delivery must be made by the dealer or by common carrier. The nonresident affidavit does not apply to these transactions. The dealer should attach a note to the temporary permit indicating out-of-state delivery along with the fee and mail it to the Tax Commission. Verification of delivery must be kept by the dealer using form TC-757, Affidavit of Out-of-state Delivery. It is not necessary to send a copy of this form to the Tax Commission.

Authorized Carriers

The sales tax law allows exemption for "sales or leases of vehicles to, or use of vehicles by an authorized carrier."

"Authorized carrier" is defined as "in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA)."

The exemption applies only to vehicles with a gross vehicle weight of 26,001 pounds or more. (See Tax Bulletin 9-95.) This weight restriction is interpreted as meaning the maximum gross laden weight of the vehicle, combination of vehicles, and load carried or drawn, for which the motor vehicle is registered.

Trailer Dollies

A trailer dolly required to be licensed and registered as a trailer and used in combination with other vehicles that would qualify for the exemption would meet the qualification for exemption when purchased by an authorized carrier and operated pursuant to IRP and IFTA.

Multiple Trailers

Trailers and semitrailers purchased separately from a power unit or in numbers in excess of available power units are allowed the exemption if purchased for use in combination with vehicles meeting exemption criteria. However, a trailer purchased or leased for use as a temporary office, storage facility or other use not associated with highway transportation is not allowed.

Ancillary Equipment

Auxiliary equipment purchased and permanently installed in or on a vehicle as part of a qualifying vehicle transaction is also considered as exempt. The exemption only applies to "sales or leases of vehicles." Equipment or other items for the vehicle which are acquired in transactions separate from the vehicle acquisition transaction will not qualify for the exemption. For instance, if the purchaser of a qualifying vehicle enters into a separate transaction to have a dump body added to a truck, a logo painted on the cab door, or a refrigeration unit installed in a trailer, these transactions would not qualify for exemption. If, on the other hand, the purchase from the vehicle dealer includes such things in a single transaction, the exemption would apply if the purchase of the vehicle qualifies.

Tax Commission form TC-719, Sales Tax Exemption Affidavit for Authorized Carriers, must be used to verify the exemption. **CAUTION:** A dealer may be held individually liable for the tax if it is evident the dealer was a party to a plan to improperly avoid the tax.

Nonresidents Living Outside Utah

A Nonresident Affidavit, form TC-583, should be used in conjunction with sales of certain vehicles, boats, outboard motors and boat trailers to nonresidents when delivery is taken in Utah. Under Tax Commission Rule R865-19S-98, nonresident individuals working in Utah qualify for the exemption if they use the vehicle in Utah after purchase only to commute to and from a Utah place of employment. The purchaser should be encouraged to read the affidavit carefully before completing and signing. Only vehicles that are required to be registered under the Motor Vehicle Act, boats that are required to be registered under the State Boating Act, outboard motors, and boat trailers qualify for the exemption. The dealer is responsible for retaining a copy of the affidavit to evidence the exemption. The original affidavit should be sent or taken to the Tax Commission.

CAUTION: Most states have reciprocity with Utah and allow Utah sales tax paid as a credit against their use tax, provided the sales tax was legally due to Utah first (see "Credit Allowed for Other State's Tax" in this publication). Dealers near the state's borders should realize that a customer who lives out-of-state, but who does not qualify as a nonresident may not purchase a vehicle tax free by using the nonresident affidavit. However, a vehicle may be purchased without Utah tax if delivery is taken outside Utah (see "Interstate Sales"). Be sure your customer knows that Utah use tax, plus penalties and interest, will be assessed if the vehicle is used in Utah other than for traveling through Utah as a tourist, or commuting to and from work.

CAUTION: Trailers (other than boat trailers) under 750 pounds unladen weight and truck campers are not subject to vehicle registration and are not exempt from tax if the nonresident customer takes delivery in Utah.

WARNING: Civil and/or criminal penalties may be imposed against either the customer or the dealer for fraudulent use of affidavits to avoid the tax.

Nonresident Military Personnel Stationed in Utah

Military personnel stationed in Utah are not exempt from Utah sales or use tax on purchases of qualifying items, unless the person is a nonresident of Utah with their legal military address being in some other state and they are on orders to leave the state within 30 days with no intention to return other than as a visitor or tourist.

Nonresident Students Attending Utah Schools

Students living and attending schools in Utah are not exempt from Utah sales tax unless the student is a nonresident of Utah under the definitions in Tax Commission Rule R865-19S-98, and the student has just graduated or finished his Utah schooling and will be leaving the state within 30 days with no intention of returning other than as a visitor or tourist.

NOTE: More detailed information on applicability and use of the Nonresident Affidavit is included in the section titled "Nonresident Affidavit Information," in this publication.

Resale/Re-lease

A completed exemption certificate must be on file to claim this exemption.

Trade-ins, Leases, Allowances, Discounts and Rebates

Trade-in Exemption

Allowable

Generally, an allowance for a trade-in of tangible personal property on the purchase of a vehicle may be excluded from the amount on which the tax is computed.

IMPORTANT NOTE: For the trade-in provisions of the Utah law to apply, the trade-in must be part of a single transaction, the transaction must involve only two parties, and the vehicle traded in must be owned by the same customer buying or leasing the new vehicle.

A single transaction generally means that both the trade-in of the old vehicle and the purchase of the new vehicle take place at the same time and are documented in the same contract, buyer's order and other paperwork. Additionally, the transaction would generally involve a fixed specific allowance for the particular vehicle traded in, a fixed selling price for the new vehicle, a contractual obligation of the seller to both sell the new vehicle and accept the trade-in vehicle, and a contractual obligation of the purchaser to purchase a specific vehicle. Few exceptions would be allowed to these general rules. The trade-in provisions with regard to the "single transaction" criteria would not be considered as violated, for instance, if the new vehicle is ordered from the factory and actual delivery of the new vehicle to the customer is consequently delayed.

See Tax Commission Rules R865-19S-30 and R865-19S-72.

Not Allowable

The trade-in credit DOES NOT APPLY if the person trading in a vehicle does not appear as the owner on the title to the trade-in. An owner of a vehicle recently acquired, but not yet titled in that buyer's name, must be able to show that all applicable sales or use taxes have been paid on the acquisition of the vehicle, or the trade-in credit will not apply.

Trades of services (e.g., advertising, legal, accounting, etc.), equity in real property and items taken for sale on consignment are not allowable trades for reduction of the taxable base. A credit given for a trade on a future purchase is not part of the purchase transaction and no reduction for a trade is allowed for sales tax credit.

CAUTION: Do not overstate or duplicate credits on trade-downs or trades on nontaxable sales.

Lease Transactions

1. The gross amounts of all payments under a lease agreement are subject to the tax (with few exceptions, such as the fee-in-lieu of property tax, insurance, etc. under special circumstances). See Tax Commission Rule R865-19S-32.
2. Up-front payments are taxable to the extent that they are part of the purchase or lease price. The portion of up-front payments attributed to nontaxable charges, such as document service fees, license/registration/titling fees, etc., are exempt.
3. Lessors are responsible for the tax on payments they receive or credit against the lease.
4. Dealers are responsible for tax on payments they receive that are not forwarded to the lessor.
5. The sales tax rate on lease payments is generally based on the rate in effect for the leasing company's location. In the event the leasing company does not have a Utah location, the rate in effect will apply according to the Utah address of the lessee.

CAUTION: The tax rates and reporting jurisdictions applicable to lease payments are determined by the lessor's circumstances, location, and presence in Utah. Dealers should communicate with the independent leasing companies for whom they are initiating contracts to determine rates of tax applicable to periodic lease payments.

6. A lease which includes, in whole or in part, a payoff of a previously existing obligation or refinancing by a lease transaction in which title is vested in the lessor, constitutes a taxable lease. This is true unless the transaction fits the criteria for sale-leaseback transactions as defined in Utah Code Ann. §59-12-102.
7. A customer who wants to trade in a vehicle that he has been leasing or otherwise does not own (financing liens notwithstanding), must first complete the purchase of that vehicle and pay any sales or use tax applicable to that purchase before he can trade the vehicle in to receive any consideration for trade-in credit. For instance, if a customer has a vehicle which he is leasing, he must first exercise his purchase option under the lease, pay the tax on the payoff or purchase price (and any unpaid lease payments) before he can trade the vehicle in to the dealer.
8. The trade-in credit for an owned vehicle is allowed against the typical lease situation to the extent that the trade equity reduces the periodic lease payments to the lessor.

Allowances and Discounts

Trade allowances or discounts given to customers will reduce the taxable base. Early payment discounts are computed on the tax and sales price.

Rebates

If the manufacturer's rebate is certain at the time of sale, tax should be charged only on the net amount of the sale (the amount of sale less any rebate received by the customer or applied against the down payment); otherwise, tax is charged on the total before the rebate credit, and refunded to the customer when proof of rebate is given to the dealer.

Repossession Credits and Bad Debts

Repossession Credits

Repossession credits are determined by the application of a "ratio" to the taxable base after a reduction for any down payment and recoveries (gross amount before attorney or collection agency fees). The ratio is the unexpired portion (number of monthly payments not made) of the contract to the total length of the contract.

EXAMPLE:

| | |
|---|-----------|
| a. Total taxable base | \$30,000 |
| b. Down payment and recoveries. | (\$5,000) |
| c. Balance of taxable base financed | \$25,000 |
| d. Number of full months unpaid at time of repossession | 40 |
| e. Total contract period | 60 |

Ratio x Taxable Base Financed = Repossession Credit

$$(40/60) \times \$25,000 = \$16,667$$

Show this credit on the proper line of the sales tax return and attach an explanation.

Only the selling dealer is allowed to claim a credit or file for a refund on repossessions. Under certain conditions, financial institutions may apply to the selling dealer for credit. See Tax Commission Rule R865-19S-20.

CAUTION: Make certain of the amount originally taxed (consider rebates, price adjustments, discounts, etc.) and the rate of tax. Special computations are required for contracts calling for balloon payments at the end of the contract.

Bad Debts

Accounts written off for income tax purposes should be considered for possible sales tax credit. The following conditions apply:

- original sale was taxable and reported on the sales and use tax return;
- amounts written off are first adjusted for nontaxable items such as: sales tax included, interest, gasoline charges, legal fees, late charges, etc.; and
- credits must be offset by recoveries (gross amount before attorney or collection agency fees) of bad accounts previously claimed for credit.

CAUTION: Be aware of tax rate changes. Do not take credit at the current rate on sales originally taxed at a different rate.

Employee Sales, Demonstrators and Vending Machine Sales

Sales to Employees

These sales must be considered for sales tax. If you "credit" an expense account for miscellaneous sales, remember to establish a method to handle the sales tax.

Demonstrators

Normally, owners and licensed salesmen can be assigned a demo without being assessed sales or use tax. Rental charges for demos are subject to tax. Rental charges include charge backs, whether or not formally designated as a rental. For more information, see Tax Commission Rule R865-19S-82.

Vending Machine Sales

Food and beverages sold through vending machines must be taxed by the owner or operator in the following manner:

- sales of food or drinks exceeding one dollar (\$1) and sales of items other than food or drink must be reported in full (sales tax should be divided out of gross receipts);
- sales of food and beverages for one dollar (\$1) or less may be reported for tax based on either 150 percent of the cost of items vended or on the gross proceeds from the sale; and
- if items from vending machines are furnished to employees and/or customers at less than cost, sales tax must be paid to the supplier at the time of purchase.

Off-site Sales / Special Event Sales

If you have questions about the correct way to handle sales tax for off-site vehicle sales, visit the Tax Commission website, tax.utah.gov, or contact the Special Events Unit at (801) 297-6303 or 1-800-662-4335, ext. 6303; or via email at specialevent@utah.gov.

Courtesy Delivery

In-state Dealer Transactions

The dealer making the sale must charge, collect and remit the sales tax at the tax rate applicable to its business location when another in-state dealer makes a courtesy delivery for the seller.

Out-of-state Dealer/Manufacturer's Transactions

A local dealer may be responsible for collecting Utah sales or use tax when making courtesy deliveries for an out-of-state dealer or manufacturer. The local dealer should not issue a dealer report of sale, but Utah use tax must be paid directly to the Utah State Tax Commission by the Utah customer, or by the dealer on behalf of the customer, at the time of registration.

CAUTION: Courtesy deliveries of vehicles to nonresident military personnel arriving in Utah from overseas or out-of-state locations present a variety of concerns and treatments depending on the specific circumstances. See "Specific Problem Areas; Military" in this publication.

Body Shops, Repair Shops and Service Departments – Supply Purchases

Paint, Parts and Other Purchases for Resale

Businesses repairing and servicing vehicles are not required to pay tax on their purchases of items that are sold and become an ingredient or component part of the customer's vehicle. Some examples of nontaxable purchases include: lubricants; welding rods; paint, wax and lacquers used in painting or polishing vehicles; body filler, repair parts, etc.; sublet repair labor; paint hardener and rust preventatives.

Consumable Shop Supplies

Tax must be paid on purchases of items used or consumed by the body/repair/service shop, even though a separate charge is made to the customer for such items. Purchases of the following items are taxable to the shop, since they do not become an ingredient or component of the vehicle being repaired or serviced:

- equipment, tools and dies, even though expendable and charged to the customer;
- sandpaper, tape, masking paper, and similar supplies.;
- paint thinners and accelerators;
- chemicals and solvents used for cleaning parts or tools;
- parts or supplies used for public relations or advertising purposes (e.g., parts to repair a potential customer's vehicle);
- grinding wheels and compounds; and
- oxygen, acetylene, argon, carbon dioxide, helium, etc.

NOTE: Additional information on taxable and nontaxable sales and purchases can be found under "Special Charges to Customers" in this publication.

Premiums and Gifts

Items having value to the customer (e.g., floor mats, car radios, glassware, etc.) that are given to customers who purchase a vehicle should be purchased tax-free by the dealer. They are considered part of the sale price of the vehicle. "Premiums" or "advertising tools" having insignificant value to the customer or given without a purchase requirement are subject to tax when purchased by the dealer. Examples of items normally considered advertising tools taxable to the dealer are:

- business cards and advertising flyers;
- pencils, match books, etc., whether dealer's name is on the item or not; and
- coupon books for encouragement of future sales or service.

Gifts

Items given to potential customers (no purchase required), employees or business associates are subject to sales or use tax at the time of purchase.

CAUTION: Even though a "premium" is listed on the customer's invoice (e.g., pens, pictures, calendar, etc.), tax must be paid by the dealer to their supplier or reported as

"goods consumed" on their return. This is the case unless the dealer can clearly demonstrate that the premium has significant value to the customer rather than being a "tool" to promote future sales.

See Tax Commission Rule R865-19S-68 for more information.

Donations to Exempt Entities

A dealer who donates a vehicle or other item, or who provides use of such to an organization that would be exempt if a sale had been made, is not required to either collect or pay sales/use tax on the value of the donated property or use.

Waste Tire Recycling Fee

Utah Code Ann. §19-6-805 imposes a recycling fee on each purchase of new tires. The waste tire recycling fee is paid by the consumer to the tire retailer at the time the new tire is purchased. Both new and used vehicle dealers (including trailer and off-road vehicle dealers, in addition to automobile, truck and recreational vehicle dealers) are considered tire retailers for this purpose. The fee applies to all tires sold with a new vehicle. Dealers, at their option, may pay the fee to a tire dealer, provided they also pay sales tax on the purchase. The tire recycling fee is used as an incentive to generate businesses to manufacture products from waste tires. The Tax Commission collects and deposits the proceeds into a trust fund for recyclers. Local health departments partially reimburse recyclers for their costs.

The fee is \$1 for rim sizes up to and including 24½ inches. Sales tax exemptions, including the nonresident affidavit, do not apply to the recycling fee. Sales of tires or tires mounted on vehicles sold to governmental agencies or other normally-exempt institutions are **not** exempt from this fee. The fee itself is not subject to sales tax. The fee does not apply to used tires, bicycle tires, or any tires attached to devices propelled by human power, nor does it apply to tires sold and delivered out of state. A separate reporting form/schedule will be sent to tire retailers. Tire retailers are allowed to retain 2½ percent of the fees collected and reported to cover the cost of collection.

Tourism Tax and Motor Vehicle Rental Tax

County legislative bodies may impose a tourism tax of up to 7 percent on the short-term lease or rental of motor vehicles. In addition to the county tourism tax, a state-wide motor vehicle rental tax of 2½ percent is charged on all short-term motor vehicle rentals or leases. Persons filing monthly returns are entitled to a vendor discount equal to 1 percent of the tourism short-term leasing tax adopted by the county. The state-wide motor vehicle rental tax of 2.5 percent is not eligible for the vendor discount.

The tourism tax, if adopted, and the state-wide motor vehicle rental tax both apply to all rentals of passenger cars, trucks, sport utility vehicles, motor homes, or other recreational vehicles that are normally rented for tourism, recreation or other business purposes, for a period of 30 days or less, except:

- leases and rentals of motor vehicles for the purpose of temporarily replacing a motor vehicle that is being repaired pursuant to a repair or insurance agreement;
- leases and rentals of motor vehicles that are registered for a gross laden weight of 12,001 pounds or more;

- leases or rentals of commercial trucks or moving trucks;
- leases or rentals of off-highway vehicles or snowmobiles; and
- leases and rentals of motor vehicles as personal household goods moving vans.

Leases and rentals of motor vehicles that would be exempt from sales tax are also exempt from this tax. Exemptions must be documented by a signed Exemption Certificate, TC-721, to be retained by the lessor. A separate reporting form/schedule will be provided and mailed with the sales and use tax returns for each reporting period.

Tax Tips

Analyze Credit Balances

Analyze credit balances in your sales tax accrual and expense accounts. The amounts may be income for franchise or income tax purposes (e.g., reduction of repossession loss) or sales tax due but not paid from a prior period's return.

Use Tax Must Be Accrued and Paid

Use tax must be accrued and paid on certain purchases from unregistered out-of-state vendors. Some of the more common items for use tax reporting include advertising supplies, special office or shop equipment, computer hardware and software, and office supplies.

Cost of Parts

Cost of parts need not be considered for tax when used to repair a vehicle recently sold under an implied warranty and/or to keep the customer's good will.

Penalties and Fines

Utah Code Ann. §59-1-401 provides for uniform fines and penalties for failing to file tax returns, filing late, failing to pay taxes due, or paying late. It may be very expensive to find yourself or your employees uninformed, lax, or negligent about state tax laws.

Nonresident Affidavit Information

Use of the Nonresident Affidavit, form TC-583, is required to verify tax-exempt sales of vehicles, boats, boat trailers, and out-board motors to nonresidents for use outside the state.

Who Should Read This Information

Anyone who completes any of the information on the affidavit, who helps anyone else complete the affidavit, or who may have occasion to review the documents of the sale or financing of the transaction should be thoroughly familiar with the affidavit's use, purpose and meaning.

Requirements for the Exemption to Apply

Utah Code Ann. §59-12-104 exempts the following from sales tax:

- Sales of vehicles of a type that are required to be registered under the motor vehicle laws of this state that are made to bona fide nonresidents of this state and are not thereafter

registered or used in this state except as necessary to transport them to the borders of this state; and

- Sales of boats of a type that are required to be registered under Title 73, Chapter 18, boat trailers and outboard motors that are made to bona fide nonresidents of this state and are not thereafter registered or used in this state except as necessary to transport them to the borders of this state.

The affidavit is designed to help the purchaser and the seller determine if the circumstances meet the criteria for the exemption. It serves this purpose only if it is read, understood and completed fully and truthfully.

1. The first qualification for the exemption, one that is often a source of confusion, is that the item must be either a vehicle that is required to be registered under the motor vehicle laws of Utah, a boat that is required to be registered under the State Boating Act, a boat trailer, or an outboard motor. Slide-in campers and trailers of 750 pounds or less unladen weight (except boat trailers), etc. do not meet this requirement.
2. The information on the affidavit itself clarifies the Tax Commission's position with regard to the second requirement. Anyone not qualifying under the language of the affidavit must not use the affidavit for an exemption.
3. The third qualification has to do with use of the item in Utah subsequent to purchase. The narrowest interpretation of the language in the statute with regard to use in Utah after purchase would certainly be that the item must be picked up from the dealer, removed from the state, and that it must never return. As a matter of practicality, and in order to avoid discouraging tourism in Utah, infrequent, occasional, nonbusiness use of a motor vehicle in Utah, such as by a tourist, will not prohibit application of the exemption. However, it must be clearly established that the purchaser or operator of the vehicle is a nonresident. In the case of a boat, infrequent, occasional, nonbusiness use in Utah, not exceeding 14 days in any calendar year, will not invalidate the exemption. Use for more than 14 days in a calendar year would require registration of a non-resident's boat under the State Boating Act and invalidate the exemption. For purposes of this exemption, the term "use" includes mooring, slipping, and storage as well as operation in Utah. Dealers should be aware and remind customers of this requirement. Excessive use in Utah of the item purchased tax-free under this exemption is in violation of the law and the certification made by the purchaser on the affidavit. Such violation may have the effect of nullifying the exemption claimed and may make the purchaser liable for full tax, penalties and interest applicable under the law.
4. Registration in Utah after purchase is in direct violation of the exemption criteria and will invalidate the exemption.

Responsibility for Tax Exemptions

The responsibility is on the purchaser to provide much of the information for the affidavit, but the dealer has the ultimate responsibility for verifying the exempt nature of the transaction. A fully completed affidavit, taken in good faith by the dealer, will fulfill that obligation. However, a dealer who accepts an affidavit that contains false or misleading statements that he (or any of his employees involved in the transaction) knows to be false, may be held responsible for the tax, interest and severe penalties under the law.

General Guidelines for Affidavit Completion and Acceptance

1. The affidavit must be completed legibly. Print or type all information.
 2. All sections of the affidavit must be completed.
 3. The seller claiming the exemption must keep a copy of all affidavits as evidence of the exemption. These copies should be readily available in case of audit by agents of the Tax Commission. The original must be submitted to the Tax Commission by both vehicle and marine dealers.
 4. The purchaser should complete the information on the affidavit that relates to his status. A Power of Attorney issued to the dealer for registration, titling, etc., should **not** be considered as authorizing the dealer to sign the affidavit for the customer. The dealer is seldom sufficiently aware of the purchaser's personal circumstances to complete the affidavit for him. The affidavit should never become "just another piece of paper to sign."
 5. The dealer should advise the purchaser to carefully read and complete the top section of the affidavit.
 6. If the sale is made to more than one person, each must qualify for the exemption and execute a separate affidavit. A Utah resident co-buyer (as evidenced by a buyers order, security/installment sale agreement etc.) disqualifies the transaction from the nonresident exemption.
 7. The Nonresident Affidavit is not to be used as evidence of other exemptions, out-of-state deliveries, resale, etc. Each particular exemption requires its own documentation for support.
 8. If the purchaser's answers on the affidavit indicate the exemption does not apply, the dealer must collect the tax. Further, dealers must not accept an affidavit for tax exemption if they know the affidavit contains false statements or are, in any way, aware that the purchaser does not qualify for the exemption. If the affidavit's statements are in conflict with other documents or information available to the dealer, the dealer must not exempt the transaction from the tax.
 9. Versions of the affidavit form older than the March 2000 revision will not be accepted as evidence of exemption for sales occurring after July, 2000.
 10. Any failure to comply with the provisions of the affidavit may result in disallowance of the exemption claimed.
- running lights, antennas, auxiliary batteries, fuel tanks, water tanks, inboard engines, inboard/out drives, auxiliary outboard mounting brackets, horns, winches, sails, sail halyards and similar installed or integral equipment.
 2. A boat trailer, regardless of unladen weight, will qualify for the exemption. Also allowable are the winch, side boards, spare tires, etc. attached to the trailer and part of the original sales transaction.
 3. Any outboard motor, regardless of horsepower, fuel supply or energy source, will qualify. Also included are its remote control and fuel supply tank or battery when sold as part of the original sale of the motor.
 4. Boats not required to be registered, such as kayaks, canoes, rowboats or inflatable boats, will not qualify unless specifically designed to be propelled by motor or sail.
 5. Equipment that is not part of the original transaction for sale of the boat, motor and/or trailer, or that is not installed in a permanent manner to the boat, motor or trailer, will not qualify for exemption. Such equipment includes water skis, fishing equipment, other water sports gear, anchors, fire extinguishers, safety equipment, life jackets, ice chests, tool kits, spare parts, camping gear, bumpers, flotation devices, ropes, paddles, etc. The law specifically indicates outboard motors are included. Inboard/outdrive units sold separately from the sale of a boat will not qualify. Sales of items not qualifying must be taxed.
 6. Nonqualifying items must be separately stated and separately priced on the invoice or contract of sale to enable proper handling for sales tax purposes.

Qualifying/Nonqualifying Items – Marine

1. Only boats required to be registered under the provisions of the State Boating Act, Utah Code Ann. §73-18-7, qualify for the exemption. This would include both motor-boats and sailboats as defined by the act. A motorboat is any vessel propelled by machinery, regardless of whether the machinery is the principal source of power. A sailboat is any vessel having one or more sails and propelled by the force of wind. In addition to the boat itself, the exemption will also be allowed for items that are part of the original boat sales transaction and are installed in or on the boat in a permanent manner. Such items, if so installed or attached, would include convertible tops, swim platforms, trim tabs, radios, stereos, speakers, depth finders, spot lights,
2. A vehicle purchased by a Utah resident and given or registered to a nonresident is still subject to tax.
 3. A vehicle purchased by a bona fide nonresident and given to someone for use in Utah is taxable.
 4. Residency in another state does not preclude qualification as a resident of this state under the definitions.
 5. The purchase of a vehicle by a resident taking delivery in Utah, even if for use exclusively outside the state of Utah, is subject to the sales tax.
 6. Ownership of property in another state, even a primary residence, does not make a person a nonresident of Utah if such a person meets any of the definitions of a resident under the rule.

Specific Problem Areas

Some of the situations that seem to recur frequently and are a source of problems for dealers, purchasers and the Tax Commission are explained more fully here. This by no means covers all of the possibilities and each case must be viewed on its own merits, remembering that all three requirements (vehicle type, nonresidency and use in Utah only as necessary to remove from the state or to commute to work) must be met for the exemption to apply.

Nonresidency/Use

1. Anyone involved with the nonresident affidavit should be familiar with the disqualifying criteria on the affidavit. If a person (including an individual, corporation, partnership, joint venture, etc.) meets any of the disqualifying criteria on the affidavit, the requirement for non-residency is not met and tax must be charged.
2. A vehicle purchased by a Utah resident and given or registered to a nonresident is still subject to tax.
3. A vehicle purchased by a bona fide nonresident and given to someone for use in Utah is taxable.
4. Residency in another state does not preclude qualification as a resident of this state under the definitions.
5. The purchase of a vehicle by a resident taking delivery in Utah, even if for use exclusively outside the state of Utah, is subject to the sales tax.
6. Ownership of property in another state, even a primary residence, does not make a person a nonresident of Utah if such a person meets any of the definitions of a resident under the rule.

7. No one qualifying as a resident has an option to pay the tax to another state. If the sales tax is first due to Utah, it must be paid here.
8. A corporation doing business in Utah, even though incorporated in another state and purchasing a vehicle for delivery in Utah, even if for exclusive use outside Utah, qualifies as a resident under the definition, and the exemption does not apply.
9. Residency includes, but is not limited to, such things as having a Utah drivers license, paying resident tuition, having a Utah resident hunting or fishing license and being registered to vote in Utah elections.
10. Even occasional business use of a vehicle in Utah will invalidate the exemption.

Military

1. While the Soldiers and Sailors Relief Act may relieve servicemen of some tax responsibilities and registration requirements, it does not give a serviceman stationed in Utah any automatic immunity from sales or use taxes imposed by the statutes.
2. A serviceman stationed in Utah may be a nonresident by act of the U.S. Congress, but for a qualifying item to be sold tax-free to him, it must not be purchased for use in Utah.
3. A vehicle, boat or outboard sold to a serviceman stationed in Utah will be assumed to be for use in Utah unless the serviceman has orders at the time of purchase to make a permanent duty station change within 30 days. The dealer should keep a copy of the transfer orders along with the affidavit in order to verify the exemption.
4. A military person who accepts employment off base or in a civilian capacity, or purchases a place of residence, may lose his nonresident status for purposes of the exemption.
5. A nonresident serviceman who goes outside the state to purchase a vehicle or any other tangible personal property for use here while stationed in Utah would be directly liable to the state of Utah for the Utah use tax on that purchase. See Utah Code Ann. §59-12-104.
6. A military person's spouse, if working in Utah in a civilian position, qualifies as a resident for purposes of the exemption.

Students

1. Students are not considered nonresidents for purposes of the Sales and Use Tax Act (regardless of their tuition status) if they meet any of the definitions of a resident other than renting a place of residence (item 3 of the definitions).
2. Employment in Utah precludes claims of nonresidency for purposes of the sales tax exemption.
3. Even a bona fide nonresident student may not purchase a vehicle tax free under the exemption, unless graduating and permanently leaving the state within 30 days.
4. If the student qualifies as a resident under any of the definitions at time of purchase, the exemption is not available, regardless of graduation or exiting the state.

Utah Employees

1. Persons employed in Utah, even though residing in another state and legally residents of that state, are not nonresidents of Utah for purposes of the exemption if the vehicle is used in Utah other than to commute to work.
2. If the purchaser is a resident under the definitions, the transaction is taxable. Registration in the name of another will not defeat the taxability of the sale.
3. Even temporary assignments as an employee, a self employed person, a contractor, etc. working in Utah will disqualify the person for the exemption.

Credit Allowed for Other State's Tax

1. Most states allow credit for at least part of the sales or use tax legally due to another state first. Since sales tax is a tax on the transaction and not on the property, the tax is first due at the point of sale. If the sale takes place in Utah and a nonresident affidavit is completed by the purchaser in error or accepted by the dealer in error, no credit will be allowed by Utah for any tax paid to any other state, since tax was legally due in Utah first.
2. Utah will allow credit for tax properly first due and paid to another state.

Reciprocity

1. Utah has reciprocal agreements with Idaho and Wyoming that allow a person having a primary residence in one state but employed in another, to use a highway vehicle properly registered with the state of principal residence in the other state for purposes of commuting to the work place.
2. The agreements are specifically for registration of such vehicles and do not have the effect of waiving any other fees or taxes levied by the respective states.

Out-of-state Deliveries

1. The nonresident affidavit is not appropriate to evidence exemption for out-of-state deliveries of motor vehicles. It is only to be used for sales to bona fide nonresidents taking delivery in Utah for use outside of Utah.
2. The seller must keep evidence of the out-of-state delivery to verify the exemption. Affidavit of Out-of-State Delivery, form TC-757, may be used as evidence of this exemption.
3. Frequent deliveries into another state may subject the seller to the other state's tax collection requirements.
4. The out-of-state delivery must be an essential part of the sale, and the seller must be obligated by terms of the sales contract to make physical delivery of the vehicle across a state boundary line to the buyer. The seller must, in fact, make that physical delivery. See Tax Commission Rule R865-19S-44.
5. If the purchaser brings the vehicle back to Utah for use here, the vehicle may be subject to Utah use tax, with credit allowed for tax properly first due and paid to the other state.
6. Mere out-of-state delivery does not necessarily preclude assessment of tax on a sales transaction, but it does usually change the liability from a sales tax liability of the seller to a use tax liability of the purchaser.

Obtaining Forms and Additional Information

Branch Offices

Each motor vehicle office in the state has a limited supply of necessary forms.

Internet

All Tax Commission forms and publications can be found and printed at the Tax Commission's website, **tax.utah.gov**. From the website you can also find tax bulletins, private letter rulings and other tax information, learn about electronic services offered to Utah taxpayers, and follow links to other federal, state and local taxing authorities.

Telephone

If you have questions regarding sales or use tax, contact the Tax Commission at (801) 297-2200 or 1-800-662-4335. Questions about registration and dealer administration should be referred to the Motor Vehicle Division, (801) 297-7780 or 1-800-368-8824; or the Motor Vehicle Enforcement Division, (801) 297-2682.